IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Contempt Petition No. 210 of 2005

Jitendra Kumar
S/o Shri Ved Ram,
R/o Village Paluni, District Haridwar
At present R/o New Market, Bhagwanpur,
District Haridwar.

…… Petitioner

Versus

1. Shri Nand Nandan Prasad Pandey,
   Addl. Director, S.C.E.R.T.,
   Narendra Nagar, Tehri Garhwal.
2. Shri Surendra Singh Negi, Principal,
   District Institute of Education & Training,
   Gochar, District Chamoli.

…….. Respondents

Mr. Lok Pal Singh, learned counsel for the petitioner.
Mr. N.B. Tiwari, learned Chief Standing Counsel for the State.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the petitioner and learned Chief Standing Counsel for the State.

2) This Contempt Petition has been filed complaining wilful disobedience on the part of the respondents of the order dated 25.07.2005, passed in Writ Petition No. 772 (M/S) of 2005. The operative portion of the order disobedience of which has been complained, reads as under:

> ***"In view of the aforesaid facts, respondents are directed to consider the candidature of the petitioner as Science Graduate for the Special B.T.C. course against fifty per cent of the seats, which have been reserved for Science Group."***

3) Learned counsel for the petitioner argued that he is a Bachelor of Science in Agriculture, as is clear from the Annexure filed with this contempt petition, which shows that the petitioner Jitendra Kumar got graduated in the year 2003 from

Chaudhary Charan Singh University, Meerut and was awarded Degree of Bachelor of Science in Agriculture. Though the Degree do not indicate the subjects mentioned in it, but the marksheet, a copy of which has been filed, do indicate the subjects which were passed by the petitioner.

4) Counter affidavits have been filed on behalf of respondent Nos. 1 and 2. Paragraph No. 3 of the counter affidavit filed by respondent No. 1, reads as under:

> *"That in reply to the contents of para 2 of the contempt petition, it is submitted that the petitioner who possess the degree of B.Sc. Agriculture applied against the quota reserved for O.B.C. category candidates for the vacancies in special B.T.C. Science-Group against the advertisement dated 19.04.2005. The petitioner instead of submitting one form as per the condition of advertisement the application form was to be submitted for one District only but the petitioner submitted two forms one for District Institute of Education & Training Gochar, District Chamoli and the other District Institute of Education & Training, Chadigaon, District Pauri.*
>
> *It is further submitted that the application form of the petitioner was duly considered for the Special B.T.C. selection but since the petitioner did not obtained the degree with either of the following subjects "Physics, Chemistry, Maths, Botany & Zoology" as stipulated in the original advertisement dated 01.08.2004, the petitioner could have been selected in the Science-Group consequently the case of the petitioner was rejected after due consideration and in the other category the petitioner could not be selected because of being much junior in the year wise merit list prepared by the Selection Committee. True photocopy of the*

Advertisement dated 01.08.2004 is being filed herewith and is marked as Annexure No. C.A. 1 to this affidavit.

It is pertinent to point out here that in the advertisement dated 01.08.2004 is was consequently mentioned that for the applying under the Science Category the incumbent must have passed the degree with two of the five subjects "Physics, Chemistry, Maths, Botany and Zoology" mentioned in the advertisement. But, admittedly, the petitioner did not possess the degree with the two subjects as mentioned in the advertisement, the petitioner could not have been treated as a candidate in Science Group;

It is also worth mentioning here that the petitioner again applied in the State Level Counselling held on 12.07.2005 in S.C.E.R.T., Uttaranchal, Narendra Nagar by mentioning himself under the Science Group. The S.C.E.R.T. mentioned the name of the candidate only on the basis of application forms and the petitioner's name was mentioned in the list pertaining to Science Group at Sl. No. 22 but the selection could not have been made only after the due verification of the original certificates, the marks, the caste and the group and since the petitioner was not found eligible, in view of the condition of the advertisement dated 01.08.2004, to be a candidate of Science-Group consequently he was not selected and the petitioner filed a writ petition No. 722 (M/S) of 2005 before this Hon'ble Court."

The above contents in the counter affidavit indicate that the petitioner's case was considered for admission in Special B.T.C. course by the Selection Committee, but since, the petitioner did not possess the Degree in either of the subject of Physics, Chemistry, Maths, Botany and Zoology as stipulated in the original advertisement, as such, his candidature was rejected. It

is also mentioned in the para quoted above, that the petitioner could not be selected also because of being much junior in the year wise merit list prepared by the Selection Committee.

5) In the circumstances, it cannot be said that the respondents did not consider the case of the petitioner in compliance of the order dated 25.07.2005, passed in Writ Petition No. 772 (M/S) of 2005, nor can it be said that there is wilful disobedience on the part of the answering respondents. Therefore, the contempt petition is dismissed. Notices issued against the respondents are discharged.

(Prafulla C. Pant, J.)

Dt.: 6th March, 2006
H. Negi